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PART - VII

GOVERNMENT OF MEGHALAYA ORDERS BY THE GOVERNOR

NOTIFICATIONS

The 1st September, 2006

No.LL(B)9/2006/127.—The following Act passed by the Parliament and assent by the President of India and published in the Gazette of India, Part II Section I, on the date below is hereby republished for general information.

SI. No.	Name of Act	Act Nos. and Years	Date of Publication in the Gazette of India
1.	Reserved Bank of India (Amendment) Act, 2006.	Act No. 26 of 2006	13th June, 2006
2.	Micro, Small and Medium Enterprises Development Act, 2006	Act No. 27 of 2006	16th June, 2006
3.	National Institute of Fashion Technology Act, 2006.	Act No. 28 of 2006	14th July, 2006
4.	Taxation Laws Amendment Act, 2006.	Act No. 29 of 2006	14th July, 2006
5.	The Union Duties of Excise (Electricity) Distribution Repeal Act, 2006	Act No. 30 of 2006	14th July, 2006
6.	The Parliament (Prevention of Disqualification) (Amendment) Act, 2006	Act No. 31 of 2006	18th August, 2006
7.	The Constitution (Ninety-Fourth Amendment) Act, 2006	-	13th June, 2006

THE RESERVE BANK OF INDIA (AMENDMENT) ACT, 2006

An

Act

further to amend the Reserve Bank of India Act, 1934.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:-

1.(1). This Act may be called the Reserve Bank of India (Amendment) Act, 2006.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2 of 1934

2. In section 17 of the Reserve Bank of India Act, 1934 (hereinafter referred to as the principal Act), —

Amendment of section 17.

(i) after clause (6), the following shall be inserted, namely :—

‘(6A) dealing in derivatives, and, with the approval of the Central Board, in any financial instrument.

Explanation.—For the purposes of this clause, “derivative” means an instrument, to be settled at a future date, whose value is derived from change in one or a combination of more than one of the following underlyings, namely:—

(a) interest rate,

(b) price of securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government,

(c) price of foreign securities,

(d) foreign exchange rate,

(e) index of rates or prices,

(f) credit rating or credit index,

(g) price of gold or silver coins, or gold or silver bullion, or

(h) any other variable of similar nature;’;

(ii) after clause (12A), the following shall be inserted, namely:—

‘(12AA) lending or borrowing of securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities;

(12AB) dealing in repo or reverse repo:

Provided that lending or borrowing of funds by way of repo or reverse repo shall not be subject to any limitation contained in this section.

Explanation.—For the purposes of this clause,—

(a) “repo” means an instrument for borrowing funds by selling securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities, with an agreement to repurchase the said securities on a mutually agreed future date at an agreed price which includes interest for the funds borrowed;

(b) “ reverse repo” means an instrument for lending funds by purchasing securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities, with an agreement to resell the said securities on a mutually agreed future date at an agreed price which includes interest for the funds lent,’.

Amendment of
Section 42

3. In section 42 of the principal Act,—

(i) in sub-section (I),—

(a) for the words, brackets and figure “three per cent, of the total of the demand and time liabilities in India of such bank as shown in the return referred to in sub-section (2)”, the words, brackets and figure “such per cent, of the total of the demand and time liabilities in India of such bank as shown in the return referred to in sub-section (2), as the Bank may from time to time, having regard to the needs of securing the monetary stability in the country, notify in the Gazette of India” shall be substituted;

(b) the proviso shall be omitted;

(ii) sub-sections (IAA) and (IB) shall be omitted.

4. After Chapter IIIC of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new
Chapter III D.

'CHAPTER III D

REGULATION OF TRANSACTIONS IN DERIVATIVES, MONEY MARKET INSTRUMENTS,
SECURITIES, ETC.

45U. For the purposes of this Chapter,—

Definitions.

(a) “derivative” means an instrument, to be settled at a future date, whose value is derived from change in interest rate, foreign exchange rate, credit rating or credit index, price of securities (also called “underlying”), or a combination of more than one of them and includes interest rate swaps, forward rate agreements, foreign currency swaps, foreign currency-rupee swaps, foreign currency options, foreign currency-rupee options or such other instruments as may be specified by the Bank from time to time;

(b) “money market instruments” include call or notice money, term money, repo, reverse repo, certificate of deposit, commercial usance bill, commercial paper and such other debt instrument of original or initial maturity up to one year as the Bank may specify from time to time;

(c) “repo” means an instrument for borrowing funds by selling securities with an agreement to repurchase the securities on a mutually agreed future date at an agreed price which includes interest for the funds borrowed;

(d) “reverse repo” means an instrument for lending funds by purchasing securities with an agreement to resell the securities on a mutually agreed future date at an agreed price which includes interest for the funds lent;

(e) “securities” means securities of the Central Government or a State Government or such securities of a local authority as may be specified in this behalf by the Central Government and, for the purposes of “repo” or “reverse repo”, include corporate bonds and debentures.

10 of 1949

42 of 1999

from time to time, shall be valid, if at least one of the parties to the transaction is the Bank, a scheduled bank, or such other agency failing under the regulatory purview of the Bank under the Act, the Banking Regulation Act, 1949, the Foreign Exchange Management Act, 1999, or any other Act or instrument having the force of law, as may be specified by the Bank from time to time.

(2) Transactions in such derivatives, as had been specified by the Bank from time to time, shall be deemed always to have been valid, as if the provisions of sub-section (1) were in force at all material times.

45 W. (1) The Bank may, in public interest, or to regulate the financial system of the country to its advantage, determine the policy relating to interest rates or interest rate products and give directions in that behalf to all agencies or any of them, dealing in securities, money market instruments, foreign exchange, derivatives, or other instruments of like nature as the Bank may specify from time to time:

42 of 1956

Provided that the directions issued under this sub-section shall not relate to the procedure for execution or settlement of the trades in respect of the transactions mentioned therein, on the Stock Exchanges recognised under section 4 of the Securities Contracts (Regulation) Act, 1956.

Duty to comply with direction and furnish information.

(2) The Bank may, for the purpose of enabling it to regulate agencies referred to in sub-section (1), call for any information, statement or other particulars from them, or cause an inspection of such agencies to be made.

45X. It shall be the duty of every director or member or other body for the time being vested with the management of the affairs of the agencies referred to in section 45W to comply with the directions given by the Bank and to submit the information or statement or particulars called for under that section.'

Power to regulate transactions in derivatives, money market instruments, etc.

THE MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT ACT, 2006

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THE MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT

ACT, 2006

An

Act

to provide for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises and for matters connected therewith or incidental thereto.

WHEREAS a declaration as to expediency of control of certain industries by the Union was made under section 2 of the Industries (Development and Regulation) Act, 1951;

AND WHEREAS it is expedient to provide for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises and for matters connected therewith or incidental thereto;

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (/) This Act may be called the Micro, Small and Medium Enterprises Development Act, 2006.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Advisory Committee” means the committee constituted by the Central Government under sub-section (2) of section 7;

(b) “appointed day” means the day following immediately after the expiry of the period of fifteen days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

Explanation.—For the purposes of this clause,—

(i) “the day of acceptance” means,—

(a) the day of the actual delivery of goods or the rendering of services; or

(b) where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(ii) “the day of deemed acceptance” means, where no objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

(c) "Board" means the National Board for Micro, Small and Medium Enterprises established under section 3;

(d) "buyer" means whoever buys any goods or receives any services from a supplier for consideration;

(e) "enterprise" means an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged in the manufacture or production of goods, in any manner, pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 or engaged in providing or rendering of any service or services;

65 of 1951.

(f) "goods" means every kind of movable property other than actionable claims and money;

(g) "medium enterprise" means an enterprise classified as such under sub-clause (iii) of clause (a) or sub-clause (iii) of clause (b) of sub-section (1) of section 7;

(h) "micro enterprise" means an enterprise classified as such under sub-clause (i) of clause (a) or sub-clause (i) of clause (b) of sub-section (1) of section 7;

(i) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;

61 of 1981.

(j) "notification" means a notification published in the Official Gazette;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;

2 of 1934.

(m) "small enterprise" means an enterprise classified as such under sub-clause (ii) of clause (a) or sub-clause (ii) of clause (b) of sub-section (1) of section 7;

(n) "supplier" means a micro or small enterprise, which has filed a memorandum with the authority referred to in sub-section (1) of section 8, and includes,—

(i) the National Small Industries Corporation, being a company, registered under the Companies Act, 1956;

1 of 1956.

1 of 1956.

(ii) the Small Industries Development Corporation of a State or a Union territory, by whatever name called, being a company registered under the Companies Act, 1956;

(iii) any company, co-operative society, trust or a body, by whatever name called, registered or constituted under any law for the time being in force and engaged in selling goods produced by micro or small enterprises and rendering services which are provided by such enterprises;

(o) "Small Industries Bank" means the Small Industries Development Bank of India established under sub-section (1) of section 3 of the Small Industries Development Bank of India Act, 1989;

39 of 1989.

(p) "State Government", in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution.

CHAPTER II

NATIONAL BOARD FOR MICRO, SMALL AND MEDIUM ENTERPRISES

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board to be known as the National Board for Micro, Small and Medium Enterprises.

Establishment of Board.

(2) The head office of the Board shall be at Delhi.

(3) The Board shall consist of the following members, namely:—

(a) the Minister in charge of the Ministry or Department of the Central Government having administrative control of the micro, small and medium enterprises who shall be the *ex officio* Chairperson of the Board;

(b) the Minister of State or a Deputy Minister, if any, in the Ministry or Department of the Central Government having administrative control of the micro, small and medium enterprises who shall be *ex officio* Vice-Chairperson of the Board, and where there is no such Minister of State or Deputy Minister, such person as may be appointed by the Central Government to be the Vice-Chairperson of the Board;

(c) six Ministers of the State Governments having administrative control of the departments of small scale industries or, as the case may be, micro, small and medium enterprises, to be appointed by the Central Government to represent such regions of the country as may be notified by the Central Government in this behalf, *ex officio*;

(d) three Members of Parliament of whom two shall be elected by the House of the People and one by the Council of States;

(e) the Administrator of a Union territory to be appointed by the Central Government, *ex officio*;

(f) the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the micro, small and medium enterprises, *ex officio*;

(g) four Secretaries to the Government of India, to represent the Ministries of the Central Government dealing with commerce and industry, finance, food processing industries, labour and planning to be appointed by the Central Government, *ex officio*;

(h) the Chairman of the Board of Directors of the National Bank, *ex officio*;

(i) the Chairman and managing director of the Board of Directors of the Small Industries Bank, *ex officio*;

(j) the Chairman, Indian Banks Association, *ex officio*;

(k) one officer of the Reserve Bank, not below the rank of an Executive Director, to be appointed by the Central Government to represent the Reserve Bank;

(l) twenty persons to represent the associations of micro, small and medium enterprises, including not less than three persons

representing associations of women's enterprises and not less than three persons representing associations of micro enterprises, to be appointed by the Central Government;

(m) three persons of eminence, one each from the fields of economics, industry and science and technology, not less than one of whom shall be a woman, to be appointed by the Central Government;

(n) two representatives of Central Trade Union Organisations, to be appointed by the Central Government; and

(o) one officer not below the rank of Joint Secretary to the Government of India in the Ministry or Department of the Central Government having administrative control of the micro, small and medium enterprises to be appointed by the Central Government, who shall be the Member-Secretary of the Board, *ex officio*.

(4) The term of office of the members of the Board, other than *ex officio* members of the Board, the manner of filling vacancies, and the procedure to be followed in the discharge of their functions by the members of the Board, shall be such as may be prescribed:

Provided that the term of office of an *ex officio* member of the Board shall continue so long as he holds the office by virtue of which he is such a member.

(5) No act or proceedings of the Board shall be invalid merely by reason of :—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

(6) The Board shall meet at least once in every three months in a year.

(7) The Board may associate with itself, in such manner and for such purposes as it may deem necessary, any person or persons whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Board relevant to the purposes for which he has been associated but shall not have the right to vote.

(8) Without prejudice to sub-section (7) the Chairperson of the Board shall, for not less than two of the meetings of the Board in a year, invite such Ministers of the State Governments having administrative control of the departments of small scale industries or, as the case may be, the micro, small and medium enterprises, or the Administrators of Union territories and representatives of such other associations of micro, small and medium enterprises, as he may deem necessary for carrying out the purposes of this Act.

(9) It is hereby declared that the office of member of the Board shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

Removal of member from Board.

4. (1) The Central Government may remove a member of the Board from it, if he— (a) is, or at any time has been, adjudged as insolvent; or
 (b) is, or becomes, of unsound mind and stands so declared by a competent court; or
 (c) refuses to act or becomes incapable of acting as a member of the Board; or
 (d) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
 (e) has so abused, in the opinion of the Central Government, his position as a member of the Board as to render his continuance in the Board detrimental to the interests of the general public.

(2) Notwithstanding anything contained in sub-section (1), no member shall be removed from his office on the grounds specified in clauses (c) to (e) of that sub-section unless he has been given a reasonable opportunity of being heard in the matter.

5. The Board shall, subject to the general directions of the Central Government, perform all or any of the following functions, namely:—

(a) examine the factors affecting the promotion and development of micro, small and medium enterprises and review the policies and programmes of the Central Government in regard to facilitating the promotion and development and enhancing the competitiveness of such enterprises and the impact thereof on such enterprises;

(b) make recommendations on matters referred to in clause (a) or on any other matter referred to it by the Central Government which, in the opinion of that Government, is necessary or expedient for facilitating the promotion and development and enhancing the competitiveness of the micro, small and medium enterprises; and

(c) advise the Central Government on the use of the Fund or Funds constituted under section 12.

6. Subject to other provisions of this Act, the Member-Secretary of the Board shall exercise such powers and perform such functions as may be prescribed.

Functions of Board.

Powers and functions of Member-Secretary of Board.

CHAPTER III

CLASSIFICATION OF ENTERPRISES, ADVISORY COMMITTEE AND MEMORANDUM OF MICRO, SMALL AND MEDIUM ENTERPRISES

65 of 1951.

7. (1) Notwithstanding anything contained in section 11B of the Industries (Development and Regulation) Act, 1951, the Central Government may, for the purposes of this Act, by notification and having regard to the provisions of sub-sections (4) and (5), classify any class or classes of enterprises, whether proprietorship, Hindu undivided family, association of persons, co-operative society, partnership firm, company or undertaking, by whatever name called,—

Classification of enterprises

65 of 1951.

(a) in the case of the enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, as —

(i) a micro enterprise, where the investment in plant and machinery does not exceed twenty-five lakh rupees;

(ii) a small enterprise, where the investment in plant and machinery is more than twenty-five lakh rupees but does not exceed five crore rupees; or

(iii) a medium enterprise, where the investment in plant and machinery is more than five crore rupees but does not exceed ten crore rupees;

(b) in the case of the enterprises engaged in providing or rendering of services, as—

(i) a micro enterprise, where the investment in equipment does not exceed ten lakh rupees;

(ii) a small enterprise, where the investment in equipment is more than ten lakh rupees but does not exceed two crore rupees; or

(iii) a medium enterprise, where the investment in equipment is more than two crore rupees but does not exceed five crore rupees.

Explanation 1 .—For the removal of doubts, it is hereby clarified that in calculating the investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such other items as may be specified, by notification, shall be excluded.

Explanation 2.—It is clarified that the provisions of section 29B of the Industries (Development and Regulation) Act, 1951, shall be applicable to the enterprises specified in sub-clauses (i) and (ii) of clause (a) of sub-section (1) of this section.

65 of 1951

(2) The Central Government shall, by notification, constitute an Advisory Committee consisting of the following members, namely:—

(a) the Secretary to the Government of India in the Ministry or Department of the Central Government having administrative control of the small and medium enterprises who shall be the Chairperson, *ex officio*;

(b) not more than five officers of the Central Government possessing necessary expertise in matters relating to micro, small and medium enterprises, members, *ex officio*;

(c) not more than three representatives of the State Governments, members, *ex officio*; and

(d) one representative each of the associations of micro, small and medium enterprises, members, *ex officio*.

(3) The Member-Secretary of the Board shall also be the *ex officio* Member-Secretary, of the Advisory Committee.

(4) The Central Government shall, prior to classifying any class or classes of enterprises under sub-section (1), obtain the recommendations of the Advisory Committee.

(5) The Advisory Committee shall examine the matters referred to it by the Board in connection with any subject referred to in section 5 and furnish its recommendations to the Board.

(6) The Central Government may seek the advice of the Advisory Committee on any of the matters specified in section 9,10,11,12 or 14 of Chapter IV.

(7) The State Government may seek advice of the Advisory Committee on any of the matters specified in the rules made under section 30.

(8) The Advisory Committee shall, after considering the following matters, communicate its recommendations or advice to the Central Government or, as the case may be, State Government or the Board, namely:—

(a) the level of employment in a class or classes of enterprises;

(b) the level of investments in plant and machinery or equipment in a class or classes of enterprises;

(c) the need of higher investment in plant and machinery or equipment for technological upgradation, employment generation and enhanced competitiveness of the class or classes of enterprises;

(d) the possibility of promoting and diffusing entrepreneurship in micro, small or medium enterprises; and

(e) the international standards for classification of small and medium enterprises.

(9) Notwithstanding anything contained in section 11B of the Industries (Development and Regulation) Act, 1951 and clause (A) of section 2 of the Khadi and Village Industries Commission Act, 1956, the Central Government may, while classifying any class or classes of enterprises under sub-section (1), vary, from time to time, the criterion of investment and also consider criteria or standards in respect of employment or turnover of the enterprises and include in such classification the micro or tiny enterprises or the village enterprises, as part of small enterprises.

65 of 1951.

61 of 1951.

8. (1) Any person who intends to establish,—

(a) a micro or small enterprise, may, at his discretion; or

(b) a medium enterprise engaged in providing or rendering of services may, at his discretion; or

(c) a medium enterprise engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951,

65 of 1951.

shall file the memorandum of micro, small or, as the case may be, of medium enterprise with such authority as may be specified by the State Government under sub-section (4) or the Central Government under sub-section (3):

Provided that any person who, before the commencement of this Act, established—

(a) a small scale industry and obtained a registration certificate, may, at his discretion; and

(b) an industry engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, having investment in plant and machinery of more than one crore rupees but not exceeding ten crore rupees and, in pursuance of the notification of the Government of India in the erstwhile Ministry of Industry (Department of Industrial

Memorandum
of micro, small
and medium
enterprises.

65 of 1951.

Development) number S.O.477(E), dated the 25th July, 1991 filed an Industrial Entrepreneur's Memorandum, shall within one hundred and eighty days from the commencement of this Act, file the memorandum, in accordance with the provisions of this Act.

(2) The form of the memorandum, the procedure of its filing and other matters incidental thereto shall be such as may be notified by the Central Government after obtaining the recommendations of the Advisory Committee in this behalf.

(3) The authority with which the memorandum shall be filed by a medium enterprise shall be such as may be specified, by notification, by the Central Government.

(4) The State Government shall, by notification, specify the authority with which a micro or small enterprise may file the memorandum.

(5) The authorities specified under sub-sections (3) and (4) shall follow, for the purposes of this section, the procedure notified by the Central Government under sub-section (2).

CHAPTER IV

MEASURES FOR PROMOTION, DEVELOPMENT AND ENHANCEMENT OF COMPETITIVENESS OF MICRO, SMALL AND MEDIUM ENTERPRISES

9. The Central Government may, from time to time, for the purposes of facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises, particularly of the micro and small enterprises, by way of development of skill in the employees, management and entrepreneurs, provisioning for technological upgradation, marketing assistance or infrastructure facilities and cluster development of such enterprises with a view to strengthening backward and forward linkages, specify, by notification, such programmes, guidelines or instructions, as it may deem fit.

Measures for promotion and development.

10. The policies and practices in respect of credit to the micro, small and medium enterprises shall be progressive and such as may be specified in the guidelines or instructions issued by the Reserve Bank, from time to time, to ensure timely and smooth flow of credit to such enterprises, minimise the incidence of sickness among and enhance the competitiveness of such enterprises.

Credit facilities

Procurement preference policy.

11. For facilitating promotion and development of micro and small enterprises, the Central Government or the State Government may, by order notify from time to time, preference policies in respect of procurement of goods and services, produced and provided by micro and small enterprises, by its Ministries or departments, as the case may be, or its aided institutions and public sector enterprises.

Funds.

12. There shall be constituted, by notification, one or more Funds to be called by such name as may be specified in the notification and there shall be credited thereto any grants made by the Central Government under section 13.

Grants by Central Government.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, credit to the Fund or Funds by way of grants for the purposes of this Act, such sums of money as that Government may consider necessary to provide.

Administration and utilisation of Fund or Funds.

14. (1) The Central Government shall have the power to administer the Fund or Funds in such manner as may be prescribed.

(2) The Fund or Funds shall be utilised exclusively for the measures specified in sub-section (1) of section 9.

(3) The Central Government shall be responsible for the coordination and ensuring timely utilisation and release of sums in accordance with such criteria as may be prescribed.

CHAPTER V

DELAYED PAYMENTS TO MICRO AND SMALL ENTERPRISES

Liability of buyer to make payment.

15. Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.

Date from which and rate at which interest is payable.

16. Where any buyer fails to make payment of the amount to the supplier, as required under section 15, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at three times of the bank rate notified by the Reserve Bank.

Recovery of amount due.

17. For any goods supplied or services rendered by the supplier, the buyer shall be liable to pay the amount with interest thereon as provided under section 16.

Reference to Micro and Small Enterprises Facilitation Council.

18. (1) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.

(2) On receipt of a reference under sub-section (1), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 shall apply to such a dispute as if the conciliation was initiated under Part III of that Act.

26 of 1996.

(3) Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of that Act.

(4) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction

to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.

(5) Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference.

19. No application for setting aside any decree, award or other order made either by the Council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made by the Council, shall be entertained by any court unless the appellant (not being a supplier) has deposited with it seventy-five per cent, of the amount in terms of the decree, award or, as the case may be, the other order in the manner directed by such court:

Provided that pending disposal of the application to set aside the decree, award or order, the court shall order that such percentage of the amount deposited shall be paid to the supplier, as it considers reasonable under the circumstances of the case, subject to such conditions as it deems necessary to impose.

20. The State Government shall, by notification, establish one or more Micro and Small Enterprises Facilitation Councils, at such places, exercising such jurisdiction and for such areas, as may be specified in the notification.

21. (1) The Micro and Small Enterprise Facilitation Council shall consist of not less than three but not more than five members to be appointed from amongst the following categories, namely:—

(i) Director of Industries, by whatever name called, or any other officer not below the rank of such Director, in the Department of the State Government having administrative control of the small scale industries or, as the case may be, micro, small and medium enterprises; and

(ii) one or more office-bearers or representatives of associations of micro or small industry or enterprises in the State; and

(iii) one or more representatives of banks and financial institutions lending to micro or small enterprises; or

(iv) one or more persons having special knowledge in the field of industry, finance, law, trade or commerce.

(2) The person appointed under clause (i) of sub-section (1) shall be the Chairperson of the Micro and Small Enterprises Facilitation Council.

(3) The composition of the Micro and Small Enterprises Facilitation Council, the manner of filling vacancies of its members and the procedure to be followed in the discharge of their functions by the members shall be such as may be prescribed by the State Government.

22. Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall furnish the following additional information in his annual statement of accounts, namely:—

(i) the principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier as at the end of each accounting year;

Application for selling aside decree, award or order.

Establishment of Micro and Small Enterprises Facilitation Council.

Composition of Micro and Small Enterprises Facilitation Council.

Requirement to specify unpaid amount with interest in the annual statement of accounts.

(ii) the amount of interest paid by the buyer in terms of section 16, along with the amount of the payment made to the supplier beyond the appointed day during each accounting year;

(iii) the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under this Act;

(iv) the amount of interest accrued and remaining unpaid at the end of each accounting year; and

(v) the amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of disallowance as a deductible expenditure under, section 23.

Interest not to be allowed as deduction from income.

23. Notwithstanding anything contained in the Income-tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income-tax Act, 1961, be allowed as deduction.

43 of 1961

Overriding effect.

24. The provisions of sections 15 to 23 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Scheme for closure of business of micro, Small and medium enterprises.

25. Notwithstanding anything contained in any law for the time being in force, the Central Government may, with a view to facilitating closure of business by a micro, small or medium enterprise, not being a company registered under the Companies Act, 1956, notify a Scheme within one year from the date of commencement of this Act.

1 of 1956

Appointment of officers and other employees.

26. (1) The Central Government or the State Government may appoint such officers with such designations and such other employees as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The Officers appointed under sub-section (1) may, for the purposes of this Act, by order require any person to furnish such information, in such form, as may be prescribed.

Penalty for contravention of section 8 or section 22 or section 26.

27. (1) Whoever intentionally contravenes or attempts to contravene or abets the contravention of any of the provisions contained in sub-section (1) of section 8 or sub-section (2) of section 26 shall be punishable—

(a) in the case of the first conviction, with fine which may extend to rupees one thousand; and

(b) in the case of second or subsequent conviction, with fine which shall not be less than rupees one thousand but may extend to rupees ten thousand.

(2) Where a buyer contravenes the provisions of section 22, he shall be punishable with fine which shall not be less than rupees ten thousand.

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**Jurisdiction
of courts.**

28. No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

**Power to
make rules.**

29. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office of the members of the Board, the manner of filling vacancies, and the procedure to be followed in the discharge of functions by the members of the Board under sub-section (4) of section 3;

(b) the powers and functions of the Member-Secretary under section 6;

(c) the manner in which the Fund may be administered under sub-section (1) of section 14;

(d) the criteria based on which sums may be released under sub-section (3) of section 14;

(e) the information to be furnished and the form in which it is to be furnished under sub-section (2) of section 26; and

(f) any other matter which is to be or may be prescribed under this Act.

(3) Every notification issued under section 9 and every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or rule or both Houses agree that the notification or rule should not be made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

30. (1) The State Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the composition of the Micro and Small Enterprises Facilitation Council, the manner of filling vacancies of the members and the procedure to be followed in the discharge of their functions by the members of the Micro and Small Enterprises Facilitation Council under sub-section (3) of section 21;

(b) any other matter which is to be or may be, prescribed under this Act.

**Power to
make rules
by State
Government**

(3) The rule made under this section shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

31. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

32. (1) The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 is hereby repealed.

Power to remove difficulties.

Repeal of Act 32 of 1993

(2) Notwithstanding such repeal, anything done or any action taken under the Act so repealed under sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of this Act,

THE NATIONAL INSTITUTE OF FASHION TECHNOLOGY ACT,

2006

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THE NATIONAL INSTITUTE OF FASHION TECHNOLOGY ACT, 2006

An

Act

to establish and incorporate the National Institute of Fashion Technology for the promotion and development of education and research in fashion technology and for matters connected therewith and incidental thereto.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY 1.

1.(1). This Act may be called the National Institute of Fashion Technology Act, 2006. **Short title and commencement**

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Definition

2. In this Act, unless the context otherwise requires, —

(a) “appointed day” means the date of establishment of the National Institute of Fashion Technology under sub-section (1) of section 3;

(b) “Board” means the Board of Governors of the Institute constituted under sub-section (3) of section 3;

(c) “Chairperson” means the Chairperson of the Institute nominated

under clause (a) of sub-section (3) of section 3;

(d) "Director-General" means the Director-General of the Institute appointed under section 15;

(e) "fashion" includes a popular trend or a lifestyle, specially in styles of dress and ornament or manners of behaviour or the business of creating, promoting or studying styles in vogue or the designing, production and marketing of new styles of goods such as, clothing, accessories, craft and cosmetics; and the words "fashion technology" with their grammatical variations and cognate expressions, shall be construed accordingly;

(f) "Fund" means the Fund of the Institute to be maintained under section 19;

(g) "Institute" means the National Institute of Fashion Technology established under sub-section (1) of section 3;

(h) "Institute Campus" means an Institute Campus located at New Delhi, Gandhinagar, Chennai, Mumbai, Hyderabad, Bangalore, Kolkata or any other place in India or abroad as may be decided by the Board of Governors;

(i) "Senate" means the Senate of the Institute referred to in section 12;

(j) "Society" means the National Institute of Fashion Technology, New Delhi registered as a society under the Societies Registration Act, 1860;

21 of 1860

(k) "Statutes" and "Ordinances" mean respectively the Statutes and the Ordinances of the Institute made under this Act.

CHAPTER II

THE INSTITUTE

Establishment of the Institute.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint, the National Institute of Fashion Technology shall be established as a body corporate by the name aforesaid.

(2) The Institute shall have perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and shall, by that name, sue or be sued.

(3) The Institute shall consist of the Board of Governors having the following persons, namely:—

(a) a Chairperson, who shall be an eminent academician, scientist or technologist or professional, to be nominated by the Visitor;

(b) three Members of Parliament, two from Lok Sabha to be nominated by the Speaker of Lok Sabha and one from Rajya Sabha to be nominated by the Chairman of Rajya Sabha;

(c) the Director-General of the Institute, *ex officio*;

(d) the Financial Adviser of the Ministry or Department in the Government of India dealing with the National Institute of Fashion Technology, *ex officio*;

(e) the Joint Secretary, in the Ministry or Department in the Government of India dealing with the National Institute of Fashion Technology, *ex officio*;

(f) the representative of the Ministry or Department in the Government of India dealing with higher education to be nominated by the Secretary of that Ministry or Department, *ex officio*;

(g) five persons to be nominated by the Central Government, representing the States in which the campus of the Institute is located, from amongst persons who are academicians or industrialists of repute engaged in area of fashion technology; and

(h) two eminent experts in fashion technology, one of whom shall be an educationist, to be nominated by the Visitor on the recommendations of the Central Government.

(4) The term of office of the Chairperson and other members of the Board other than *ex officio* members thereof shall be three years and they shall be entitled for such allowances as may be determined by the Central Government.

(5) The term of office of members of the Board nominated to fill a casual-vacancy shall continue for the remainder of the term of the member in whose place he has been nominated.

(6) The Board shall meet at least four times in a year at such place and time and observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by the Board.

(7) It is hereby declared that the office of member of the Board of Governors shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

4. On and from the appointed day, subject to the other provisions of this Act, all properties which had vested in the Society, immediately before the commencement of this¹ Act, shall on and from such commencement, vest in the Institute.

Vesting of properties

5. On and from the appointed day —

(a) any reference to the Society in any contract or other instrument shall be deemed as a reference to the Institute;

(b) all the rights and liabilities of the Society shall be transferred to, and be the rights and liabilities of, the Institute; and

(c) every person employed by the Society, immediately before the appointed day, shall hold office or service in the Institute by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fond and other matters as he would have held the same, if this Act had not been passed, and shall continue

Effect of incorporation of Institute.

to be so, unless and until his employment is terminated or until such tenure, remuneration, terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employee and one month's remuneration in the case of other employee.

6. The functions of the Institute shall be —

Functions of Institute.

(/) to nurture and promote quality and excellence in education and research in area of fashion technology;

(ii) to lay down courses leading to graduate and post-graduate degrees, doctoral and post-doctoral courses and research in area of fashion technology;

(iii) to hold examinations and grant degrees in area of fashion technology;

(iv) to confer honorary degrees, awards or other distinctions in area of fashion technology;

(v) to cooperate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of faculty members and scholars and generally in such manner as may be conducive to their common objective;

(vi) to conduct courses for teachers, fashion technologists and other professionals;

(vii) to undertake research and studies in area of fashion technology and application thereof, particularly concerning the integration of locally produced materials, the requirements of mass production, improved quality and design and international marketing;

(viii) to collect and maintain literature and materials available in area of fashion technology so as to develop a modern information centre within the country;

(ix) to create a central faculty of fashion technology resource and analysis for use by the researchers;

(x) to have a centre to experiment and innovate and to train persons in the area of fashion technology;

(xi) to develop an international centre for creation and transmission of information in the area of fashion technology, with focus on educational, professional and industrial commitments; -

(xii) to develop a multi-disciplinary approach in carrying out research and training in area of fashion technology so that the larger interests of the profession, academia and fashion industry are better served;

(xiii) to organise national or international symposia, seminars,

conferences and exhibitions in selected area of fashion technology, from time to time;

(xiv) to arrange courses catering to the special needs of the developing countries;

(xv) to act as a nucleus for interaction between academia and industry by encouraging exchange of fashion technologists and other technical staff between the Institute and the industry and by undertaking sponsored and funded research as well as consultancy projects by the Institute;

(xvi) to provide technical assistance to artisans, craftsmen, manufacturers, designers and exporters of fashion products; and

(xvii) to carry out any other activity in the area of fashion technology not specifically listed above.

Powers of Board

7. (1) Subject to the provisions of this Act, the Board, under overall control of the Central Government, shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

(2) Without prejudice to the provisions of sub-section (1), the Board shall -

(a) take decisions on questions of policy relating to the administration and working of the Institute;

(b) take decisions on the establishment of new campuses of the Institute at any location in India or abroad;

(c) fix, demand and receive fees and other charges;

(d) establish, maintain and manage halls and hostels for the residence of the students;

(e) supervise and control the residence and regulate the discipline of students of the Institute and to make arrangements for promoting their health, general welfare and cultural and corporate life;

(f) institute academic and other posts and to make appointments thereto (except in the case of the Director-general);

(g) frame Statutes and Ordinances and to alter, modify or rescind the same;

(h) institute and award fellowships, scholarships, prizes and medals;

(i) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute for the next financial year as it thinks fit together with a statement of its development plans;

(j) receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfers of movable or immovable properties from the testators, donors or transferors, as the case may be; and

(k) do all such things as may be necessary, incidental or conducive to the attainment of all or any of the aforesaid powers.

(3) The Board shall have the power to appoint such committees, as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

(4) Notwithstanding anything contained in sub-section (2) of section 3, the Board shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

(5) The Central Government may appoint one or more persons to review the work and progress of the Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Central Government may direct.

(6) Upon receipt of any such report, the Central Government may take such action and issue such directions as it considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions.

(7) The Visitor shall have the power to remove the Chairperson or other members of the Board nominated by him, on the recommendations of the Central Government.

(8) The Central Government shall have the power to remove other members, if it considers it appropriate to do so.

(9) No Chairperson or member shall be removed under sub-section (7) or sub-section (8) unless he has been given a reasonable opportunity of being heard in the matter.

8. (1) The Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever.

Institute be open to all races, creeds and classes.

(2) No bequest, donation or transfer of any property shall be accepted by the Institute, which in the opinion of the Board involves conditions or obligations opposed to the spirit and object of this section.

9. All teaching at the campuses of the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and the Ordinances made in this behalf.

Teaching at Institute.

10. The President of India shall be the Visitor of the Institute.

Visitor.

11. The following shall be the authorities of the Institute, namely:—

Authorities of Institute.

(a) a Board of Governors;

(b) a Senate; and

(c) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

12. The Senate of the Institute shall consist of the following persons, namely:—

Senate.

(a) the Director-General, *ex officio* who shall be the Chairperson of the Senate;

(b) all Institute Campus Directors and Senior Professors;

(c) three persons, not being employees of the Institute, to be nominated by the Chairperson in consultation with the Director-General, from amongst educationists of repute, one each from the fields of science, engineering and humanities and one of them shall be either from the Scheduled Castes or the Scheduled Tribes;

(d) one alumnus of the Institute to be nominated by the Chairperson in consultation with the Director-General by rotation; and

(e) such other members of the staff as may be laid down in the Statutes.

13. Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate of the Institute shall have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

Functions of Senate.

Functions, powers and duties of Chairperson.

14. (1) The Chairperson shall ordinarily preside at the meetings of the Board and at the Convocations of the Institute.

(2) The Chairperson shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

Director-General.

15. (1) The Director-General of the Institute shall be appointed by the Board with the prior approval of the Central Government for a tenure of three years.

(2) The Director-General shall be the principal executive officer of the Institute and shall be responsible for the proper administration of the Institute and for imparting of instruction and maintenance of discipline therein.

(3) The Director-General shall submit annual reports and accounts to the Board.

(4) The Director-General shall exercise such other powers and perform such other duties as may be assigned to him by this Act, Statutes and Ordinances.

(5) The Central Government shall have the power to remove the Director-General before the tenure of three years, if it considers it appropriate to do so.

Registrar.

16. (1) The Registrar of the Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall be the custodian of records, the common seal, the funds of the Institute and such other property of the Institute as the Board shall commit to his charge.

(2) The Registrar shall act as the Secretary of the Board, the Senate

and such committees as may be prescribed by the Statutes.

(3) The Registrar shall be responsible to the Director-General for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Director-General.

Power and duties of other authorities and officers.

17. The powers and duties of authorities and officers, other than those hereinbefore mentioned, shall be determined by the Statutes.

Grants by Central Government.

18. For the purpose of enabling the Institute to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as it may think fit.

Fund of Institute.

19. (1) The Institute shall maintain a Fund to which shall be credited —

(a) all moneys provided by the Central Government;

(b) all fees and other charges received by the Institute;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The fund shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

Setting up of endowment fund.

20. Notwithstanding anything contained in section 19, the Central Government may direct the Institute to -

(a) set up an endowment fund and any other fund for specified purpose; and

(b) transfer money from its Fund to endowment fund or any other fund.

21. (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in such form as may be specified, in accordance with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor-General of India.

Account and audit.

(2) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India, generally has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Institute.

(4) The accounts of the Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

22. (1) The Institute shall constitute, for the benefit of its employees, including the Director-General, in such manner and subject to such conditions as may be prescribed by the Statutes, such pension, insurance and provident funds as it may consider necessary.

Pension and
Provident fund.

19 of 1925.

(2) Where any such provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government Provident Fund.

23. All appointments of the staff of the Institute, except that of the Director-General, shall be made in accordance with the procedure laid down in the Statutes by -

Appointment.

(a) the Board, if the appointment is made on the academic staff in the post of Assistant Professor or above or if the appointment is made on the non-academic staff in any cadre, the maximum of the pay-scale for which is the same or higher than that of Assistant Professor; and

(b) the Director-General, in any other case.

24. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

Statutes.

(a) the formation of departments of teaching;

(b) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(c) the classification, the method of appointment and the determination of the terms and conditions of service of officers, teachers and other staff of the Institute;

(d) the reservation of posts for the Scheduled Castes, the Scheduled Tribes and other backward categories of persons as may be determined by the Central Government;

(e) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute;

(f) the constitution, powers and duties of the authorities of the Institute;

(g) the establishment and maintenance of halls and hostels;

(h) the manner of filling up of vacancies among members of the Board;

(i) the authentication of the orders and decisions of the Board;

(j) the meetings of the Senate, the quorum at such meetings and the procedure to be followed in the conduct of their business; and

(k) any other matter which by this Act is to be or may be prescribed by the Statutes.

Statutes how made.

25. (1) The first Statutes of the Institute shall be framed by the Board with the previous approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereafter in this section provided.

(3) Every new Statute or addition to the Statute or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may assent thereto or withhold assent or remit it to the Board for consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

Ordinances.

26. Subject to the provisions of this Act and the Statutes, the Ordinances of the Institute may provide for all or any of the following matters, namely:—

(a) the admission of the students to the Institute;

(b) the reservation for the Scheduled Castes, the Scheduled Tribes and other backward categories of persons;

(c) the courses of study to be laid down for all degrees, diplomas and certificates of the Institute;

(d) the conditions under which students shall be admitted to the degree, diploma and certificate courses and to the examinations of the Institute and award of degrees,

diplomas and certificates;

(e) the conditions for award of fellowships, scholarships, exhibitions, medals and prizes;

(f) the conditions and mode of appointment and duties of examining body, examiners and moderators;

(g) the conduct of examinations;

(h) the maintenance of discipline among the students of the Institute;

(i) the fees to be charged for courses of study in the Institute and for admission to the examinations of degrees, diplomas and certificates of the Institute;

(j) the conditions of residence of students of the Institute and the levying of the fees for residence in the halls and hostels and other charges; and

(k) any other matter which by this Act or the Statutes is to be or may be provided for by the Ordinances.

Ordinances how made.

27. (/) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next succeeding meeting.

(3) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

Tribunal of Arbitration.

28. (1) Any dispute arising out of a contract between the Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee and an umpire appointed by the Visitor.

(2) The decision of the Tribunal of Arbitration shall be final and shall not be questioned

in any court.

(3) No suit or proceeding shall lie in any court in respect of any matter which is required by sub-section (/) to be referred to the Tribunal of Arbitration.

(4) The Tribunal of Arbitration shall have power to regulate its own procedure.

(5) Nothing in any law for the time being in force relating to arbitration shall apply to arbitration under this section.

CHAPTER III

MISCELLANEOUS

29. No act of the Institute or Board or Senate or any other body set up under this Act or the Statutes, shall be invalid merely by reason of—

Act and proceedings not to be invalidated by vacancies.

(a) any vacancy in, or defect in the constitution thereof; or

(b) any defect in the election, nomination or appointment of a person acting as a member thereof; or

(c) any irregularity in its procedure not affecting the merits of the case.

30. Notwithstanding anything contained in this Act, whenever the Institute receives funds from any Government, the University Grants Commission or any other agency including industry sponsoring a research scheme or a consultancy assignment or a teaching programme or a chaired professorship or a scholarship, etc., to be executed or endowed at the Institute:-

Sponsored schemes.

(a) the amount received shall be kept by the Institute separately from the Fund of the Institute and utilised only for the purpose of the scheme; and

(b) the staff required to execute the same shall be recruited in accordance with the terms and conditions stipulated by the sponsoring organisations:

Provided that any money remaining unutilised shall be transferred to the endowment fund created under section 20 of this Act.

31. The Institute shall have the power to grant degrees, diplomas, certificates and other academic distinctions under this Act, which shall be equivalent to such corresponding degrees, diplomas, certificates and other academic distinctions granted by any University or Institute established or incorporated under any other law for the time being in force.

**Powers of
Institute to
grant degrees,
etc.**

32. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provision or give such direction not inconsistent with the purposes of this Act, as appears to it to be necessary or expedient for removing the difficulty:

**Power to
remove
difficulties.**

Provided that no such order shall be made after the expiry of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

33. Notwithstanding anything contained in this Act —

**Transitional
provisions.**

(a) the Board of Governors of the Society functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for the Institute under this Act, but on the constitution of a new Board under this Act the members of the Board holding office before such constitution shall cease to hold office; and

(b) until the first Statutes and the Ordinances are made under this Act, the rules and regulations, instructions and guidelines of the Society as in force, immediately before the commencement of this Act, shall continue to apply to the Institute in so far as they are not inconsistent with the provisions of this Act.

**Statutes and
Ordinances to
be published
in the Official
Gazette and to
be laid before
Parliament.**

34. (1) Every Statute or Ordinance made under this Act shall be published in the Official Gazette.

(2) Every Statute or Ordinance made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute or Ordinance or both Houses agree that the Statute or Ordinance should not be made, the Statute or Ordinance shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute or Ordinance.

(3) The power to make Statutes or Ordinances shall include the

power to give retrospective effect from a date not earlier than the date of commencement of this Act to Statutes or Ordinances or any of them but no retrospective effect shall be given to any Statute or Ordinance so as to prejudicially affect the interests of any person to whom such Statutes or Ordinances may be applicable.

THE TAXATION LAWS (AMENDMENT) ACT, 2006

(AS PASSED BY THE HOUSES OF PARLIAMENT)

An

Act

further to amend the Income-tax Act, 1961, the Customs Act, 1962, the Customs Tariff Act, 1975 and the Central Excise Act, 1944.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Taxation Laws (Amendment) Act, 2006. Short title.

CHAPTER II

DIRECT TAXES

Income-tax

43 of 1961.

Amendment of section 2.

2. In section 2 of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), in clause (44), after the words "powers of a Tax Recovery Officer", the following shall be inserted, namely:—

"and also to exercise or perform such powers and functions which are conferred on, or assigned to, an Assessing Officer under this Act and which may be prescribed".

Amendment of Section 10.

3. In section 10 of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) after clause (23BBE), the following clause shall be inserted, namely:—

"(23BBF) any income of the North-Eastern Development Finance Corporation Limited, being a company formed and registered under the Companies Act, 1956;

1 of 1956

Provided that in computing the total income of the North-Eastern Development Finance Corporation Limited, the amount to the extent of—

(i) twenty per cent. of the total income for assessment year beginning on the 1st day of April, 2006;

(ii) forty per cent. of the total income for assessment year beginning on the 1st day of April, 2007;

(iii) sixty per cent. of the total income for assessment year beginning on the 1st day of April, 2008;

(iv) eighty per cent. of the total income for assessment year beginning on the 1st day of April, 2009;

(v) one hundred per cent. of the total income for assessment year beginning on the 1st day of April, 2010 and any subsequent assessment year or years,

shall be included in such total income;”;

(b) in clause (23C),—

(i) in the eighth proviso, for the words, brackets and letters “notification issued by the Central Government under sub-clause (iv) or sub-clause (v) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years”, the words, brackets, figures and letters “notification issued by the Central Government under sub-clause (iv) or sub-clause (v), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years” shall be substituted;

(ii) after the eighth proviso, the following provisos shall be inserted, namely:—

“Provided also that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, every notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under sub-clause (vi) or sub-clause (via) shall be granted or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received:

Provided also that where the total income, of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such trust or institution or any university or other educational institution or any hospital or other medical institution shall get its accounts audited in respect of that year by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and furnish along with the return of income for the relevant assessment year, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.”.

4. In section 12A of the Income-tax Act, in clause (b), for the words and figures “the provisions of section 11 and section 12 exceeds fifty-thousand rupees in any previous year”, the words and figures “the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year” shall be substituted with effect from the 1st day of April, 2006.

Amendment of
Section 12A.

5. In the Income-tax Act, in section 35, with effect from the 1 st day of April, 2006,— Amendment of Section 35.

(i) in sub-section (1),—

(a) in clause (ii), for the proviso, the following proviso shall be substituted, namely:—

“Provided that such association, university, college or other institution for the purposes of this clause—

(A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(B) such association, university, college or other institution is specified as such, by notification in the Official Gazette, by the Central Government;”;

(b) in clause (iii), for the proviso, the following proviso shall be substituted, namely:—

“Provided that such university, college or other institution for the purposes of this clause—

(A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(B) such university, college or other institution is specified as such, by notification in the Official Gazette, by the Central Government;”;

(c) after clause (iii), the following *Explanation* shall be inserted, namely:—

Explanation.—The deduction, to which the assessee is entitled in respect of any sum paid to a scientific research association, university, college or other institution to which clause (ii) or clause (iii) applies, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to the association, university, college or other institution referred to in clause (ii) or clause (iii) has been withdrawn;”;

(d) in the second proviso, for the word “authority”, the word “Government” shall be substituted;

(e) in the third proviso, for the words, brackets and letters “notification issued by the Central Government under clause (ii) or clause (iii) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years”, the words, brackets, figures and letters “notification issued, by the Central Government under clause (ii) or clause (iii), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years” shall be substituted;

(f) after the third proviso, the following proviso shall be inserted at the end, namely:—

“Provided also that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, every notification under clause (ii) or clause (iii) shall be issued or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received by the Central Government.”;

(ii) in sub-section (2AA), the *Explanation* shall be numbered as *Explanation 2* thereof and before the *Explanation 2* as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 1*.—The deduction, to which the assessee is entitled in respect of any sum paid to a National Laboratory, University, Indian Institute of Technology or a specified person for the approved programme referred to in this sub-section, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to,—

(a) such Laboratory, or specified person has been withdrawn; or

(b) the programme, undertaken by the National Laboratory, University, Indian Institute of Technology or specified person, has been withdrawn.”.

**Amendment of
Section 35AC.**

6. In section 35AC of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted with effect from the 1st day of April, 2006, namely:—

“*Explanation*.—The deduction, to which the assessee is entitled in respect of any sum paid to a public sector company or a local authority or to an association or institution for carrying out the eligible project or scheme referred to in this section applies, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee,—

(a) the approval granted to such association or institution has been withdrawn; or

(b) the notification notifying the eligible project or scheme carried out by the public sector company or local authority or association or institution has been withdrawn.”.

**Amendment of
Section 35CCA.**

7. In section 35CCA of the Income-tax Act, after sub-section (2A), the following *Explanation* shall be inserted with effect from the 1st day of April, 2006, namely:—

“*Explanation*.—The deduction, to which the assessee is entitled in respect of any sum paid to an association or institution for carrying out the programme of rural development referred to in sub-section (1), shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such programme of rural development, or as the case may be, to the association or institution has been withdrawn.”.

**Amendment of
Section 40.**

8. In section 40 of the Income-tax Act, in clause (a), in sub-clause (ia), with effect from the 1st day of April, 2006,—

(a) after the words “commission or brokerage,”, the words “rent, royalty,” shall be inserted;

(b) in the *Explanation*, after clause (iv), the following clauses shall be inserted at the end, namely:—

‘(v) “rent” shall have the same meaning as in clause (i) to the *Explanation* to section 194-I;

‘(vi) “royalty” shall have the same meaning as in *Explanation* 2 to clause (vi) of sub-section (1) of section 9;’.

9. In section 40A of the Income-tax Act, in sub-sections (3) and (4), for the words “a crossed cheque drawn on a bank or by a crossed bank draft”, wherever they occur, the words “an account payee cheque drawn on a bank or account payee bank draft” shall be substituted.

**Amendment of
Section 40A.**

10. In section 56 of the Income-tax Act, in sub-section (2),—

**Amendment of
Section 56.**

(a) in clause (v),—

(i) after the words, letters and figures “after the 1st day of September, 2004”, the words, letters and figures “but before the 1st day of April, 2006” shall be inserted with effect from the 1st day of April, 2006;

(ii) in the proviso, after clause (d), the following clauses shall be inserted, namely:—

“(e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or

“(f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or

“(g) from any trust or institution registered under section 12AA.”;

(b) after clause (v) and the *Explanation*, the following shall be inserted with effect from the 1st day of April, 2007, namely:—

“(vi) where any sum of money, the aggregate value of which exceeds fifty thousand rupees, is received without consideration, by an individual or a Hindu undivided family, in any previous year from any person or persons on or after the 1st day of April, 2006, the whole of the aggregate value of such sum:

Provided that this clause shall not apply to any sum of money received —

(a) from any relative; or

(b) on the occasion of the marriage of the individual; or

- (c) under a will or by way of inheritance; or
- (d) in contemplation of death of the payer; or
- (e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or
- (f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or
- (g) from any trust or institution registered under section 12AA.

Explanation.—For the purposes of this clause, “relative” means—

- (i) spouse of the individual;
- (ii) brother or sister of the individual;
- (iii) brother or sister of the spouse of the individual;
- (iv) brother or sister of either of the parents of the individual;
- (v) any lineal ascendant or descendant of the individual;
- (vi) any lineal ascendant or descendant of the spouse of the individual;
- (vii) spouse of the person referred to in clauses (ii) to (vi). ”.

**Amendment of
Section 80GGA.**

11. In section 80GGA of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2006,—

(a) after clause (aa), the following *Explanation* shall be inserted, namely:—

Explanation.—The deduction, to which the assessee is entitled in respect of any sum paid to a scientific research association, University, college or other institution to which clause (a) or clause (aa) applies, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval to such association, University, college or other institution referred to in clause (a) or clause (aa), as the case may be, has been withdrawn.”;

(b) after clause (b), the following *Explanation* shall be inserted, namely:—

Explanation.—The deduction, to which the assessee is entitled in respect of any sum paid to an association or institution for carrying out the programme of rural development to which this clause applies, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such programme, or as the case may be, to the association or institution has been withdrawn”;

(c) in clause (bb), the *Explanation* shall be numbered as *Explanation* 2 thereof and before the *Explanation* 2 as so numbered, the following *Explanation* shall be inserted, namely:—

“Explanation 1.—The deduction, to which the assessee is entitled in respect of any sum paid to a public sector company, or to a local authority or to an association or institution for carrying out the eligible project or scheme referred to in section 35AC, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee,—

(a) the approval granted to such association or institution has been withdrawn; or

(b) the notification notifying the eligible project or scheme referred to in section 35AC carried out by the public sector company, or local authority or association or institution has been withdrawn.”

**Amendment of
Section 139.**

12. In section 139 of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in sub-section (4C), in clause (e),—

(i) for the word, brackets and figures “sub-clause (vi)”, the words, brackets, figures and letters “sub-clause (iiiad) or sub-clause (vi)” shall be substituted;

(ii) for the word, brackets, figures and letters “sub-clause (via)”, the words, brackets, figures and letters “sub-clause (iiiae) or sub-clause (via)” shall be substituted;

(b) after sub-section (4C), the following sub-section shall be inserted, namely:—

“(4D) Every university, college or other institution referred to in clause (ii) and clause (iii) of sub-section (1) of section 35, which is not required to furnish return of income or loss under any other provision of this section, shall furnish the return in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).”.

**Amendment of
Section 143.**

13. In section 143 of the Income-tax Act, in sub-section (3), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2006, namely:—

“Provided further that where the Assessing Officer is satisfied that the activities of the university, college or other institution referred to in clause (ii) and clause (iii) of sub-section (1) of section 35 are not being carried out in accordance with all or any of the conditions subject to which such university, college or other institution was approved, he may, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned university, college or other institution, recommend to the Central Government to withdraw the approval and that Government may by order, withdraw the approval and forward a copy of the order to the concerned university, college or other institution and the Assessing Officer.”.

14. In section 155 of the Income-tax Act, after sub-section (11), the following sub-section shall be inserted, namely:—

**Amendment of
Section 155.**

“(11A) Where in the assessment for any year, the deduction under section 10A or section 10B or section 10BA has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the Assessing Officer shall amend the order of assessment so as to allow deduction under section 10A or section 10B or section 10BA, as the case may be, in respect of such income or part thereof as is so received in, or brought into, India, and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which such income is so received in, or brought into, India.”.

15. In section 194-1 of the Income-tax Act, in the *Explanation*, for clause (i), the following clause shall be substituted, namely:—

Amendment of
Section 194-1.

‘(i) “rent” means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any, —

- (a) land; or
- (b) building (including factory building); or
- (c) land appurtenant to a building (including factory building); or
- (d) machinery; or
- (e) plant; or
- (f) equipment; or
- (g) furniture; or
- (h) fittings,

whether or not any or all of the above are owned by the payee’.

16. In section 194J of the Income-tax Act, in sub-section (1), —

Amendment of
Section 194J.

(i) in clause (b), the word “or” shall be inserted at the end;

(ii) after clause (b) the following clauses shall be inserted, namely:—

- “(c) royalty, or
- (d) any sum referred to in clause (va) of section 28, ”;

(iii) in the first proviso, in clause (B),—

(a) in sub-clause (ii), for the word, brackets and letter “clause (b)”, the words, brackets and letter “clause (b), or” shall be substituted;

(b) after sub-clause (ii), the following clauses shall be inserted, namely:—

“(iii) twenty thousand rupees, in the case of royalty referred to in clause (c), or

(iv) twenty thousand rupees, in the case of sum referred to in clause (d).”;

(iv) in the *Explanation*, after clause (b), the following clause shall be inserted, namely:—

‘(ba) “royalty” shall have the same meaning as in *Explanation* 2 to clause (vi) of sub-section (1) of section 9.’.

**Amendment of
Section 246A.**

17. In section 246A of the Income-tax Act, in sub-section (1), after clause (j), the following clause shall be inserted, namely:—

“(ja) an order of imposing or enhancing penalty under sub-section (1A) of section 275;”.

**Amendment of
Section 275.**

18. In section 275 of the Income-tax Act, after sub-section (1)z, the following sub-section shall be inserted, namely:—

“(1A) In a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A or an appeal to the Appellate Tribunal under section 253 or an appeal to the High Court under section 260A or an appeal to the Supreme Court under section 261 or revision under section 263 or section 264 and an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty is passed before the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the Chief Commissioner or the Commissioner or the order of revision under section 263 or section 264 is passed, an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be passed on the basis of assessment as revised by giving effect to such order of the Commissioner (Appeals) or, the Appellate Tribunal or the High Court, or the Supreme Court or order of revision under section 263 or section 264:

Provided that no order of imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty shall be passed—

(a) unless the assessee has been heard, or has been given a reasonable opportunity of being heard;

(b) after the expiry of six months from the end of the month in which the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the Chief Commissioner or the Commissioner or the order of revision under section 263 or section 264 is passed:

Provided further that the provisions of sub-section (2) of section 274 shall apply in respect of the order imposing or enhancing or reducing penalty under this sub-section.”.

Substitution of new section for section 288B. Rounding off amount payable and refund due.

19. In Income-tax Act, for section 288B, the following section shall be substituted, namely:—

“288B. Any amount payable, and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten.”.

CHAPTER III

INDIRECT TAXES

Customs

Amendment of Section 17.

20. In the Customs Act, 1962 (hereafter referred to as the Customs Act), in section 17, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Where any assessment done under sub-section (2) is contrary to the claim of the importer or exporter regarding valuation of goods, classification, exemption or concessions of duty availed consequent to any notification therefor under this Act, and in cases other than those where the importer or the exporter, as the case may be, confirms his acceptance of the said assessment in writing, the proper officer shall pass a speaking order within fifteen days from the date of assessment of the bill of entry or the shipping bill, as the case may be.”.

21. In section 18 of the Customs Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

Amendment of Section 18.

“(3) The importer or exporter shall be liable to pay interest, on any amount payable to the Central Government, consequent to the, final assessment order under sub-section (2), at the rate fixed by the Central Government under section 28AB from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.

(4) Subject to sub-section (5), if any refundable amount referred to in clause (a) of sub-section (2) is not refunded under that sub-section within three months from the date of assessment of duty finally, there shall be paid an interest on such unrefunded amount at such rate fixed by the Central Government under section 27A till the date of refund of such amount.

(5) The amount of duty refundable under sub-section (2) and the interest under sub-section (4), if any, shall, instead of being credited to the Fund, be paid to the importer or the exporter, as the case may be, if such amount is relatable to—

(a) the duty and interest, if any, paid on such duty paid by the importer, or the exporter, as the case may be, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(b) the duty and interest, if any, paid on such duty on imports made by an individual for his personal use;

(c) the duty and interest, if any, paid on such duty borne by the buyer, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(d) the export duty as specified in section 26;

(e) drawback of duty payable under sections 74 and 75.”.

22. In section 28 of the Customs Act,—

**Amendment of
Section 28.**

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) When any duty has not been levied or has been short-levied or the interest has not been charged or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful misstatement or suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter, to whom a notice is served under the proviso to sub-section (1) by the proper officer, may pay duty in full or in part as may be accepted by him, and the interest payable thereon under section 28AB and penalty equal to twenty-five per cent. of the duty specified in the notice or the duty so accepted by such person within thirty days of the receipt of the notice.”;

(b) to sub-section (2), the following provisos shall be added, namely:—

“Provided that if such person has paid the duty in full together with interest and penalty under sub-section (1A), the proceedings in respect of such person and other persons to whom notice is served under sub-section (1) shall, without prejudice to the provisions of sections 135, 135 A and 140, be deemed to be conclusive as to the matters stated therein:

Provided further that, if such person has paid duty in part, interest and penalty under sub-section (1A), the proper officer shall determine the amount of duty or interest not being in excess of the amount partly due from such person.”.

**Insert of new
section 28BA.**

23. After section 28B of the Customs Act, the following section shall be inserted, namely:—

**Provisional
attachment to
protect
revenue in
certain cases.**

“28BA. (1) Where, during the pendency of any proceeding under section 28 or section 28B, the proper officer is of the opinion that for the purpose of protecting the interests of revenue, it is necessary so to do, he may, with the previous approval of the Commissioner of Customs, by order in writing, attach provisionally any property belonging to the person on whom notice is served under sub-section (1) of section 28 or sub-section (2) of section 28B, as the case may be, in accordance with the rules made in this behalf under section 142.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Chief Commissioner of Customs may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years:

Provided further that where an application for settlement of case under section 127B is made to the Settlement Commission, the period commencing from the date on which such application is made and ending with the date on which an order under sub-section (1) of section 127C is made shall be excluded from the period specified in the preceding proviso.”.

Amendment of Section 104.

24. In section 104 of the Customs Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) If an officer of customs empowered in this behalf by general or special order of the Commissioner of Customs has reason to believe that any person in India or within the Indian customs waters has committed an offence punishable under section 132 or section 133 or section 135 or section 135A or section 136, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.”.

Amendment of Section 108.

25. In section 108 of the Customs Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any gazetted officer of customs duty empowered by the Central Government in this behalf, shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making under this Act”.

Insertion of new section 110A.

26. After section 110 of the Customs Act, the following section shall be inserted, namely:—

“110A. Any goods, documents or things seized under section 110, may, pending the order of the adjudicating officer, be released to the owner on taking a bond from him in the proper form with such security and conditions as the Commissioner of Customs may require”.

Insertion of new section 114AA.

27. After section 114A of the Customs Act, the following section shall be inserted, namely:—

“114AA. If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods”.

Penalty for use of false and incorrect material.

28. In section 124 of the Customs Act, in clause (a), for the words “writing informing”, the words “writing with the prior approval of the officer of customs not below the rank of a Deputy Commissioner of Customs, informing” shall be substituted.

Amendment of section 124.

29. In section 129D of the Customs Act, in sub-section (2), for the words “such authority”, the words “such authority or any officer of customs subordinate to him” shall be substituted.

Amendment of section 129D.

30. In section 132 of the Customs Act, for the words "six months", the words "two years" shall be substituted. Amendment of section 133.

31. In section 133 of the Customs Act, for the words "six months", the words "two years" shall be substituted. Amendment of section 132.

32. In section 137 of the Customs Act, in sub-section (1), for the word and figures "section 135", the words, figures and letter "section 135 or section 135 A" shall be substituted. Amendment of section 137.

33. After section 154A of the Customs Act, the following section shall be inserted, namely:— Insertion of section 154B.

"154B. (1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any person and any other particulars relating to any proceedings or prosecutions under this Act in respect of such person, it may cause to be published such names and particulars in such manner as it thinks fit. Publication of information respecting persons in certain cases.

(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Commissioner (Appeals) under section 128 or the Appellate Tribunal under section 129A, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation -In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, circumstances of the case justify it".

Customs tariff

34. In section 8B of the Customs Tariff Act, 1975, in the first proviso to sub-section (1), for the words "all such countries", the words "developing countries each with less than three per cent. import share" shall be substituted. Amendment of section 8B of Act 51 of 1975.

Excise

1 of 1944.

35. In section 11A of the Central Excise Act, 1944 (hereafter referred to as the Central Excise Act),- Amendment of section 11A.

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) When any duty of excise has not been levied or paid or has been short-levied or short paid or erroneously refunded, by reason of fraud, collusion or any wilful misstatement or suppression of facts, or contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of duty, by such person or his agent, to whom a notice is served under the proviso to sub-section (1) by the Central Excise Officer, may pay duty in full or in part as may be accepted by him, and the interest payable thereon under section 11AB and penalty equal to twenty-five per cent. of the

duty specified in the notice or the duty so accepted by such person within thirty days of the receipt of the notice.”;

(b) to sub-section (2), the following provisos shall be added, namely:—

“Provided that if such person has paid the duty in full together with, interest and penalty under sub-section (1A), the proceedings in respect of such person and other persons to whom notice is served under sub-section (1) shall, without prejudice to the provisions of sections 9, 9A and 9AA, be deemed to be conclusive as to the matters stated therein:

Provided further that, if such person has paid duty in part, interest and penalty under sub-section (1A), the Central Excise Officer, shall determine the amount of duty or interest not being in excess of the amount partly due from such person.”.

Insertion of new section 11DDA.

36. After section 11DD of the Central Excise Act, the following section shall be inserted, namely:—

Provisional attachment to protect revenue in certain cases.

“11DDA. (1) Where, during the pendency of any proceedings under section 11A or section 11D, the Central Excise Officer is of the opinion that for the purpose of protecting the interests of revenue, it is necessary so to do, he may, with the previous approval of the Commissioner of Central Excise, by order in writing, attach provisionally any property belonging to the person on whom notice is served under sub-section (1) of section 11A or sub-section (2) of section 11D, as the case may be, in accordance with the rules made in this behalf under section 142 of the Customs Act, 1962.

52 of 1962.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Chief Commissioner of Central Excise may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years:

Provided further that where an application for settlement of case under section 32E is made to the Settlement Commission, the period commencing from the date on which such application is made and ending with the date on which an order under sub-section (1) of section 32F is made shall be excluded from the period specified in the preceding proviso.”.

Amendment of section 35E.

37. In section 35E of the Central Excise Act, in sub-section (2), for the words “such authority”, the words “such authority or any Central Excise Officer subordinate to him” shall be substituted.

Insertion of new section 37E.

38. After section 37D of the Central Excise Act, the following section shall be inserted, namely:—

Publication of information respecting persons in certain cases.

“37E. (1) If the Central Government is of the opinion that it is necessary or expedient in the public interest to publish the names of any person and any other particulars relating to any proceedings or prosecutions under this Act in respect of such person, it may

cause to be published such names and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Commissioner (Appeals) under section 35 or the Appellate Tribunal under section 35B, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation.—In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, circumstances of the case justify it.”.

Amendment of rule 16 of the Central Excise Rules, 2002.

39. (1) In the Central Excise Rules, 2002, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, rule 16 thereof as published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 143(E), dated the 1st March, 2002 shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (2) of the Schedule for the period specified in column (3) of that Schedule against the rule specified in column (1) of that Schedule.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 29th day of May, 2003 and ending with the 8th day of July, 2004 under the rule as amended by sub-section (1), shall be deemed to be and always to have been, for all the purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(3) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence, which would not have been so punishable if this section had not come into force.

THE SCHEDULE
(See section 39)

Provisions of the Central Excise Rules, 2002 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)
Rule 16 of the Central Excise Rules, 2002 as	In the Central Excise Rules, 2002, in rule 16, after sub-rule (3), the following provisos shall be inserted, namely:—	29th day of May, 2003 to 8th day of July,

published vide notification No. G.S.R.143(E), dated the 1st March, 2002. 'Provided that for the purposes of this rule, "assessee" shall include wire drawing unit, which has cleared the goods on payment of an amount equal to the duty at the rate applicable to drawn wire on the date of removal and on the value determined under relevant provisions of the Act and the rules made thereunder:

Provided further that the amount paid under the first proviso shall be allowed as CENVAT credit as if it was duty paid by the assessee who removes the goods.'

THE UNION DUTIES OF EXCISE (ELECTRICITY) DISTRIBUTION REPEAL ACT, 2006

An

Act

to repeal the Union Duties of Excise (Electricity) Distribution Act, 1980.

BE it enacted by Parliament in the Fifty-Seventh Year of the Republic of India as follows:—

1. This Act may be called the Union Duties of Excise (Electricity) Distribution Repeal Act, 2006. Short title.

2. The Union Duties of Excise (Electricity) Distribution Act, 1980 is hereby repealed. Repeal of Act 14 of 1980.

Saving. **3. (1)** The repeal by this Act of the repealed enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceedings in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognized or derived by, in or from the enactment hereby repealed;

nor shall the repeal by this Act of the enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

(2) Sub-section (1) shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of this act.

THE PARLIAMENT (PREVENTION OF DISQUALIFICATION)

AMENDMENT ACT OF 2006

An

Act

further to amend the Parliament (Prevention of Disqualification) Act, 1959.

BE it enacted by Parliament in the Fifty-Seventh Year of the Republic of India as follows:—

1. This Act may be called the Parliament (Prevention of Disqualification) Amendment Act, 2006.

Short title.

10 of 1959.

2. In section 3 of the Parliament (Prevention of Disqualification) Act, 1959 hereinafter referred to as the Principal Act),—

Amendment of Section 3.

(i) after clause (ac), the following clause shall be inserted, namely:—

“(ad) the office of the Chairperson of the National Advisory Council constituted by the Government of India in the Cabinet Secretariat *vide* Order No. 631/2/I/2004-Cab., dated the 31st May, 2004;”;

(ii) after clause (j) and before *Explanation I*, the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 4th day of April, 1959, namely:—

“(k) the office of Chairman, Deputy Chairman, Secretary or Member (by whatever name called) in any statutory or non-statutory body specified in the Table;

(l) the office of Chairperson or trustee (by whatever name called) of any Trust, whether public or private, not being a body specified in the Schedule;

(m) the office of Chairman, President, Vice-President or Principal Secretary or Secretary of the Governing Body of any society registered under the Societies Registration Act, 1860 or under any other law relating to registration of societies, not being a body specified in the Schedule.”.

21 of 1860

Insertion of new Table.

3. After the Schedule to the Principal Act, the following Table shall be inserted and shall be deemed to have been inserted with effect from the 4th day of April, 1959, namely:—

“TABLE
[See Section 3(k)]

S.No.	Name of body
(1)	(2)
1.	The Tripura Khadi and Village Industries Board, a body constituted under the Tripura Khadi and Village Industries Act, 1966.

2. The Uttar Pradesh Development Council.
3. The Irrigation and Flood Control Commission, Uttar Pradesh.
4. The Indian Statistical Institute, Calcutta.
5. The West Bengal Handicrafts Development Corporation Limited.
6. The West Bengal Small Industries Development Corporation Limited.
7. The West Bengal Industrial Development Corporation Limited.
8. The Sriniketan Santiniketan Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
9. The Haldia Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
10. The West Bengal Minorities Development and Finance Corporation, a body constituted under the West Bengal Minorities Development and Finance Corporation Act, 1995.
11. The Hooghly River Bridge Commissioners, constituted under the Hooghly River Bridge Act, 1969 (West Bengal Act No. 36 of 1969).
12. The Board of Wakf, West Bengal, a body constituted under the Wakf Act, 1995 (43 of 1995).
13. The State Fisheries Development Corporation Limited, West Bengal.
14. The West Bengal State Haj Committee, constituted under the Haj Committee Act, 2002 (35 of 2002).
15. The Asansol Durgapur Development Authority, West Bengal, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979).
16. The West Bengal Pharmaceutical and Phytochemical Development Corporation Limited.
17. The West Bengal Handloom and Powerloom Development Corporation Limited.
18. The West Bengal Khadi and Village Industry Board.
19. The Society for Self-employment for Urban Youth, a society registered under the West Bengal Societies Registration Act, 1961 (West Bengal Act No. 26 of 1961).
20. The Tirumala Tirupathi Devasthanams Board.
21. The Agricultural and Processed Food Products Export Development Authority, an authority constituted under Section 4 of the Agricultural and Processed Food Products Export Development Authority Act, 1985 (2 of 1986).
22. The National Agricultural Co-operative Marketing Federation of India Limited (NAFED).
23. The Indian Farmer Fertilizers Co-operative Limited (IFFCO). .
24. The Krishak Bharati Co-operative Limited (KRIBHCO).

25. The National Co-operative Consumers Federation of India Limited (NCCF).
26. The Auroville Foundation established under sub-section (1) of Section 10 of the Auroville Foundation Act, 1988 (54 of 1988).
27. The National Commission of Enterprises in the Unorganised Sector.
28. The Planning Board (Asiatic Society) established under sub-section (1) of Section 8 of the Asiatic Society Act, 1984 (5 of 1984).
29. The Delhi Rural Development Board.
30. The Maulana Azad Education Foundation.
31. The Indira Gandhi National Centre for the Arts.
32. The Dr. Ambedkar Foundation.
33. The Bihar State Board of Religious Trust, a body constituted under the Bihar Hindu Religious Trust Act, 1950 (Bihar Act No. 1 of 1951).
34. The Research and Information System for the Non-Aligned and Other Developing Countries.
35. The Indian Institute of Psychometry.
36. The Uttar Pradesh Film Development Council.
37. The Uttar Pradesh Provincial Co-operative Federation.
38. The Uttar Pradesh Co-operative Federation Limited.
39. The National Co-operative Union of India.
40. The Uttar Pradesh Krishi and Gram Vikas Bank.
41. The Uttar Pradesh Co-operative Bank Limited.
42. The Indian Council for Cultural Relations.
43. The Board of Control—A.N. Sinha Institute of Social Studies, Patna.
44. All India Council for Sports.
45. The Howrah Improvement Trust.
46. The Dalit Sena, 12, Janpath, New Delhi.
47. The Social Justice Trust, 12, Janpath, New Delhi.
48. The Bahujan Foundation (Charitable Trust), Lucknow, Uttar Pradesh.
49. The Bahujan Prerna Charitable Trust, Delhi.
50. The Central Wakf Council, established under Section 9 of the Wakf Act, 1995 (43 of 1995).
51. The Nehru Memorial Museum and Library (NMML).
52. The Jalianwala Bagh Memorial Trust.
53. The Haj Committee of India constituted under Section 3 of the Haj Committee Act, 2002 (35 of 2002).
54. The Mallickghat Phoolbazar Parichalan Committee.
55. The West Bengal Fisheries Corporation Limited.”

Special provisions as to validation and other matters.

4. (1) Notwithstanding any judgement or order of any court or tribunal or any order or opinion of any other authority, the offices mentioned in clauses (ad), (k), (l) and (m) of Section 3 of the Principal Act shall not disqualify or shall be deemed never to have disqualified the holders thereof for being chosen as, or for-being, a member of either House of Parliament as if the Principal Act as amended by this Act had been in force at all material times.

(2) Nothing contained in sub-section (1) shall be construed as to entitle any person who has vacated a seat owing to any order or judgement as aforesaid, to claim any re-instatement or any other claim in that behalf.

(3) For the removal of doubts, it is hereby clarified that any petition or reference pending before any court or other authority on the date of commencement of this Act, shall be disposed of in accordance with the provisions of the principal Act, as amended by this Act.

THE CONSTITUTION (NINETY-FOURTH AMENDMENT)

ACT 2006

An

Act

further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic, of India as follows:—

1. This Act may be called the Constitution (Ninety-fourth Amendment) Act, 2006. **Short title.**

2. In article 164 of the Constitution, in clause (1), in the proviso, for the word "Bihar", the words "Chhattisgarh, Jharkhand" shall be substituted. **Amendment of article 164.**

A.K. SANGMA,
Under Secretary to the Govt. of
Meghalaya,
Law (B) Department.